

**FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,	§	
<i>ex rel.</i> JANE DOE and JANE ROE,	§	
Plaintiffs,	§	CIVIL NO. 2:15-CV-208
	§	
v.	§	Judge Nelva Gonzales Ramos
	§	
RODNEY YSA MESQUIAS and	§	
HENRY WAYNE MCINNIS,	§	
Defendants.	§	

**THE UNITED STATES SUPPLEMENT TO ITS
MOTION FOR SUMMARY JUDGMENT ON LIABILITY**

Plaintiff, the United States of America (“United States”), with leave from the Court (ECF No. 41), files this supplement to its previously filed motion for summary judgment (“MSJ”) on liability (ECF No. 32), bringing to the Court’s attention relevant new evidence that did not exist when the MSJ was filed, -- specifically, the Supreme Court orders denying the petitions for writ of certiorari of Defendants Rodney Ysa Mesquias (“Mesquias”) and Henry Wayne McInnis (“McInnis”)(collectively “Defendants”).

I. RELEVANCE OF THE NEW EVIDENCE

1. The United States MSJ seeks summary judgment on liability pursuant to Fed. R. Civ. P. 56(a) and the doctrine of estoppel under 31 U.S.C. § 3731(e), on its False Claims Act (“FCA”), 31 U.S.C. §§ 3729 *et seq.*, causes of action One, Two, and Three. The United States incorporates as if fully stated herein, its previously filed MSJ and its Reply to Defendant McInnis’ Response to the United States MSJ. (ECF Nos. 32 and 35).

2. The FCA estoppel provision, at 31 U.S.C. § 3731(e), states:

Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall

estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding, and which is brought under subsection (a) or (b) of section 3730.

3. On November 6, 2019, a federal jury convicted the Defendants of multiple federal offenses, including health care fraud and conspiracy to commit health care fraud, arising from the same conduct, transactions, and occurrences underlying the allegations in the United States Complaint in Intervention. TXSD Case No. 1:18-cr-00008, ECF Nos. 519, 569. On March 24, 2022, the Fifth Circuit affirmed the Defendants' criminal convictions and sentences. *United States v. Mesquias*, 29 F.4th 276 (5th Cir. 2022); TXSD Case No. 1:18-cr-00008, ECF Nos. 607-610. On October 3, 2022, the Supreme Court denied the Defendants' petitions for writ of certiorari. *United States v. Mesquias*, 2022 WL 4656410 (U.S. Oct. 3, 2022), *United States v. McInnis*, 2022 WL 4652134 (U.S. Oct. 3, 2022); TXSD Case No. 1:18-cr-00008, ECF Nos. 611-612.¹

4. The Supreme Court orders denying the Defendants' petitions for writs of certiorari are relevant and important evidence of the final judgments against the Defendants in the related criminal case and they close the door to challenges by the Defendants about the essential elements of the United States FCA causes of action. There are no genuine issues of material fact regarding FCA liability in this case because a jury found the Defendants guilty beyond a reasonable doubt in the related criminal case. The FCA estoppel provision protects "litigants from the burden of re-litigating an identical issue with the same party or his privy and ... [promotes] judicial economy by preventing needless litigation." *Parklane Hosiery Co., Inc., v. Shore*, 439 U.S. 322, 326 (1979).

5. The Supreme Court orders denying the Defendants' petitions for writs of certiorari show final judgment against the Defendants and support the United States MSJ based on the FCA estoppel provision.

¹ Exhibit 1: Copies of the relevant District Court, Fifth Circuit, and Supreme Court orders.

II. CONCLUSION AND PRAYER

6. Summary judgment is an integral part of the Federal Rules designed “to secure the just, speedy, and inexpensive determination of every action” upon a proper showing of the lack of a genuine, triable issue of material fact. *Celotex Corp. v. Catrett*, 106 U.S. 317, 327 (1986). Final judgments have been rendered against the Defendants, there are no genuine issues of material fact regarding liability, and there is no statute of limitations defense; therefore, the United States is entitled to summary judgment as a matter of law, and the Court should grant the United States MSJ.

For the above stated reasons, and after review and consideration of the applicable pleadings, this supplement, the applicable statutes, and controlling case law, the United States respectfully requests the Court grant summary judgment in its favor on liability for FCA causes of action One, Two, and Three.

Date: December 02, 2022

Respectfully submitted,

JENNIFER B. LOWERY,
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CERTIFICATE OF SERVICE

I hereby certify that on December 02, 2022, this Supplement to the United States MSJ was electronically submitted to the clerk of the U.S. District Court for the Southern District of Texas via the Court's CM/ECF system and thereafter sent to Defendant Rodney Y. Mesquias by certified mail (return receipt requested) to the following address:

Rodney Y. Mesquias
Register Number: 99600-380
FCI Bastrop
Federal Correctional Institute
P.O. Box 1010
Bastrop, Texas 78602

Additionally, I hereby certify that on December 02, 2022, this Supplement to the United States MSJ was electronically submitted to the clerk of the U.S. District Court for the Southern District of Texas via the Court's CM/ECF system, and a copy served via email to counsel for Defendant Henry W. McInnis as follows:

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/s/ Julie Redlinger
Julie Redlinger
Assistant United States Attorney